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5 UNITED STATES DISTRICT COURT  
6 WESTERN DISTRICT OF WASHINGTON  
7 AT TACOMA

8 JENARDO D. HERNANDEZ,

CASE NO. C25-0026 BHS

9 Petitioner,

ORDER

10 v.

11 SCOTT SPEER,

12 Respondent.

13 THIS MATTER is before the Court on limited remand from the Ninth Circuit, for  
14 this Court to determine whether pro se petitioner Hernandez is entitled to a certificate of  
15 appealability under 28 U.S.C. § 2253(c). Dkt. 13 (citing Fed. R. App. P. 22(b); *United*  
16 *States v. Asrar*, 116 F.3d 1268, 1270 (9th Cir. 1997)).

17 Magistrate Judge Peterson correctly concluded that Hernandez had the financial  
18 ability to pay the \$5.00 filing fee, and recommended the Court deny his application to  
19 proceed *in forma pauperis*. Dkt. 6. Her Report and Recommendation (R&R)  
20 recommended the Court give Hernandez 30 days to pay the filing fee. This Court adopted  
21 the R&R, Dkt. 8, and Hernandez did not pay the filing fee. Even if he had, his proposed  
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1 habeas petition, Dkt. 1, does not make a substantial showing of the denial of a  
2 constitutional right. The Court will NOT issue a certificate of appealability.

3 **IT IS SO ORDERED.**

4 Dated this 14th day of July, 2025.

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7 BENJAMIN H. SETTLE  
United States District Judge  
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